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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2322/2023**

ANIL CHOUDHARY Applicant

Through: Ms.Dolly Sharma, Adv.

versus

STATE Respondent

Through: Mr.Aman Usman, APP with SI
Pravesh

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **23.01.2024**

1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C'), seeking Regular Bail in FIR No.826/2018 registered at Police Station: Nihal Vihar, Delhi under Sections 302/379/411/34 of the IPC and 25/27 of the Arms Act.

2. It is the case of the prosecution that on 19.12.2018, a telephonic call was made by the complainant's elder brother stating that his son/complainant's nephew has not returned home. The complainant rushed to his brother's house and thereafter, started looking for his nephew. At about 2:45 AM, the nephew was found lying in an injured condition at the Laxmi Park Ground in an unconscious condition. He was immediately taken to the hospital, where he was declared dead. Upon inspection, it was found that the belongings of the victim, that is, his bag, cash, 2-3 mobile phones, were also missing. In the MLC report of the deceased, his injuries were 'Deep cut injury over chest, deep cut injury over chin, abrasion right side of eye', as mentioned by



the doctor. Based on this incident, the FIR was registered. Police examined the CCTV cameras installed nearby and recorded the statement of the complainant under Section 161 Cr.P.C.. In the meantime, some information was received by the police through an informant that the person suspected of the above incident, that is the Applicant herein, lived at RZ-56, Laxmi Park, Nangloi, New Delhi, and he could be nabbed if a raid was conducted immediately. Accordingly, he was caught by the police. It is alleged that the Applicant confessed to the crime and stated that the deceased was having an illicit relationship with his wife, and despite warning, the deceased did not stop, so he made a plan to finish him and as he got the chance to do it, he executed the same and killed the deceased.

3. The learned counsel for the Applicant submits that, in the present case, there is no eyewitness to the crime and also no other direct evidence against the applicant in form of CCTV footage or other such thing.

4. She further submits that the charge-sheet in the above FIR was filed on 18.03.2019. Only five out twenty three witnesses have so far been examined by the prosecution, and the applicant has been in custody for more than 5 years. She submits that as per his nominal roll, applicant's conduct in the jail has been satisfactory and no other case is reported to be pending against the applicant. She submits that the other co-accused has also been released on bail.

5. On the other hand, the learned APP for the State opposes the bail application by submitting that there is material evidence against the applicant. The role of the co-accused, who have been granted bail,



was different as they were charged of offences under Section 379/411/34 of the IPC and therefore, the co-accused's case cannot be cited for seeking release on bail by the applicant.

6. I have considered the submissions made by the learned counsels for the parties.

7. In the present case, the applicant has been in judicial custody since over five years and the trial is likely to take some time, as there are over 17 witnesses left to be examined. As noted hereinabove, the investigation is complete and the chargesheet stands filed. The co-accused have also been enlarged on bail. There is no eye-witness. Moreover, as ascertained from the nominal role, applicant's conduct is stated to be satisfactory and he is not reported to be involved in any other criminal case.

8. Keeping in view the above facts and circumstances, the applicant is directed to be released on bail in FIR No.826/2018 registered at Police Station: Nihal Vihar, Delhi, on furnishing a personal bond in the sum of Rs.25,000/- with one local surety of the like amount, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.



iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.

iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.

v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.

9. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

10. The Bail Application is disposed of in the above terms.

11. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

JANUARY 23, 2024

RN/am

Click here to check corrigendum, if any